

REMARKS

Applicant has amended claim 1 to incorporate the limitations of claim 5. The Examiner indicated that the subject matter of claims 5 – 8 was allowable. It is therefore believed that claim 1 in its amended form and the claims depending therefrom are allowable. As to claim 16, the dependency of that claim has been corrected and it is therefore believed allowable.

As to independent claim 9 and the claims depending therefrom, it is noted that amendments have been made to more clearly point out and distinctly claim the subject matter of the invention. First, the identification of the telescoping members has been altered in order to conform the definition of “first member” and “second member” with the language of the specification. This was done for purposes of clarification.

Briefly, the present invention relates to a telescoping handle construction in combination with a portable tool chest mounted on wheels. The telescoping handle construction includes first and second telescoping members 80, 82 which nest one within the other. Stops are provided to limit the movement of the members 80, 82 between extended and retracted positions. Stops for the first member 80 engage with a biased lever arm 90 attached to first member 80 and include a ledge associated with a lower opening 94 and a ledge 101 at the top of the second member. The lever arm 90 is manually engageable to release it from against ledge 101 to permit retraction of both members 80, 82 into passage 50 of the chest or container. The lever arm 90 thus serves to lock the first member 80 in the extended or telescoped position, but must be manually released to permit retraction of both first and second members 80, 82 into their non-telescoped position.

Upward movement of first member 80 is limited by engagement of end 103 and tabs 107, 105 (Fig. 13, 14). Upward movement of second member 82 is limited by engagement of elements 110, 112. Downward movement of second member is limited by elements 98, 100. Locking of second member 82 in passage 50 is effected by arm 115 and pocket 119. Release of arm 115 is effected by arm 92.

Amended claim 9 is directed to the features of the interaction of arm 92 of first member 80 and ledge 101 or the ledge of opening 94 which both limit downward movement of first member 80 in second member 82. The arm 92 is manually releasable to permit movement of the first member, i.e. pushing on arm 92 releases it from ledge 101 (Fig. 7). Claim 9 also includes the feature of the means for limiting telescoping movement up and down; namely, the stops 98, 100 and 110, 112.

The Examiner rejected claim 9 on the basis of Franklin in combination with Tiramani. Franklin, however, was the primary reference and, in particular, Figures 4 and 7 of Franklin which reference the "stop" 46. Applicant notes that claim 9 has been amended so as to more fully point out that the stop member or lever arm 92 associated with the telescoping first member 80 is manually engageable and releasable. This contrasts to the stop member arrangement in the Franklin reference wherein a ball detent and stop 46 is not manually engageable and releasable. Thus with the present invention, there is a positive decision made by the user of the tool chest to disengage the telescoping first member 80 by manually releasing lever arm 92 so that it may be recessed within the second member 82 and so that both members 80, 82 may both be recessed within the passage 50. As a consequence, there is a structural as well as a functional difference

and distinction between the claimed subject matter of amended claim 9 and the prior art. For these reasons, Applicant respectfully requests reconsideration of the claims as amended and passage of the independent claims 1 and 9 as well as the claims depending therefrom to allowance.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: August 15, 2003

By: 

Jon O. Nelson

Registration No. 24,566

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(PATENT)

Attorney Docket No. 010968.00003

Express Mail No. EV 335690851 US
Deposited August 15, 2003

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By: Joseph Digan

Klemmensen, et. al., U.S. Patent Application No. 09/873,662 for "MOBILE TOOL CARRIER"

- Transmittal Form (1 page)
- Fee Transmittal for FY 2003 (1 page; in duplicate)
- Petition for Extension of Time (1 page; in duplicate)
- Amendment in Response to Office Action (9 pages)
- Return Receipt Postcard